

ARKANSAS SUPREME COURT

No. CR 95-1258

NOT DESIGNATED FOR PUBLICATION

LAMONT BOWDEN
Petitioner

v.

STATE OF ARKANSAS
Respondent

Opinion Delivered November 9, 2006

PRO SE MOTION FOR COPIES AND
TRANSCRIPT AT PUBLIC EXPENSE
[CIRCUIT COURT OF PULASKI
COUNTY, CR 94-1105]

MOTION DENIED.

PER CURIAM

Petitioner Lamont Bowden was convicted of capital felony murder and sentenced to life imprisonment. This court affirmed the judgment. *Bowden v. State*, 328 Ark. 15, 940 S.W.2d 494 (1997). Petitioner, who contends that he is indigent, filed the *pro se* motion for copies and transcript at public expense now before this court.¹ This court decides motions for transcripts and copies of other documents because such motions are considered to be requests for postconviction relief. *See Williams v. State*, 273 Ark. 315, 619 S.W.2d 628 (1981) (*per curiam*).

Petitioner requests a copy of the appellant's brief filed with this court on direct appeal, copies of his trial transcript and a transcript of proceedings on a petition under Ark. R. Crim. P. 37.1. Petitioner alleges that he had filed a petition under Rule 37.1 in the trial court, that the petition was denied and he did not appeal that order. Petitioner asserts that he requires these documents in order

¹ For clerical purposes, the motion has been filed under the docket number assigned to the direct appeal of the judgment.

to prepare a petition for postconviction relief under Act 1780 of the 2001 Acts of Arkansas, codified as Ark. Code Ann. § 16-112-201 – 16-112-207 (Repl. 2006).

A petitioner is not entitled to photocopying at public expense unless he demonstrates some compelling need for specific documentary evidence to support an allegation contained in a petition for postconviction relief. *Moore v. State*, 324 Ark. 453, 921 S.W.2d 606 (1996) (*per curiam*); *see also Austin v. State*, 287 Ark. 256, 697 S.W.2d 914 (1985) (*per curiam*). A petitioner is not entitled to access a trial record unless there is a specific point which cannot be raised in a postconviction proceeding without the record or some portion of it. *See Thomas v. State*, 328 Ark. 753, 945 S.W.2d 939 (1997) (*per curiam*). We do not provide a copy of the transcript to facilitate a postconviction proceeding without a showing that the record is necessary and that specific anticipated points cannot be properly raised without access to the transcript. *See id.*

Because petitioner did not appeal the order denying his Rule 37.1 petition, the record of that proceeding was never filed with this court. We therefore have no transcript to provide as to that request. As to the transcript of his trial and the brief filed on direct appeal, petitioner has not shown either a compelling need for specific documentary evidence to support an allegation contained in a petition for postconviction relief, or a specific point which cannot be raised in a postconviction proceeding without the record or some portion of it.

While petitioner indicates he needs the documents in order to prepare a petition under Act 1780, he has provided no indication of what points will be raised or allegations made. He has shown no compelling need or specific point that cannot be raised. He has not, therefore, met the requirements for this court to provide him copies of the documents he requests.

It should be noted that when an original action has been filed in this court, the material

pertaining to it remains permanently on file with the clerk. Persons may review the material in the clerk's office and photocopy all or portions of it. An incarcerated person desiring a photocopy of a material on file here may write this court, remit the photocopying fee, and request that the copy be mailed to the prison. All persons, including prisoners, must bear the cost of photocopying. *Moore*, 324 Ark. at 455, 921 S.W.2d at 607.

Motion denied.

Glaze, J., not participating.